

1 J. GARY GWILLIAM (State Bar No. 33430)
2 RANDALL E. STRAUSS (State Bar No. 168363)
3 GWILLIAM, IVARY, CHIOSSO, CAVALLI & BREWER
4 1999 Harrison Street, Suite 1600
5 Oakland, California 94612-3528
6 Telephone: (510) 832-5411
7 Facsimile: (510) 832-1918

8 Attorneys for Plaintiffs
9 Richard Adame, Connie G. Bender
10 and Constance Davis

11 PATRICIA K. GILLETTE (State Bar No. 74461)
12 KATINA B. MINER (State Bar No. 244914)
13 ORRICK, HERRINGTON & SUTCLIFFE LLP
14 The Orrick Building
15 405 Howard Street
16 San Francisco, California 94105
17 Telephone: (415) 773-5700
18 Facsimile: (415) 773-5759

19 Attorneys for Defendant
20 Bank of America, National Association
21 (erroneously sued as "Bank of America")

22 UNITED STATES DISTRICT COURT

23 NORTHERN DISTRICT OF CALIFORNIA

24 RICHARD ADAME, CONNIE G.
25 BENDER, and CONSTANCE DAVIS

26 Plaintiff,

27 v.
28 BANK OF AMERICA, NATIONAL
ASSOCIATION (erroneously sued as
"Bank of America")

Defendant.

Case No. CV 09-0129 SI

**STIPULATION AND [PROPOSED] ORDER
GRANTING PLAINTIFFS' LEAVE TO FILE
FIRST AMENDED COMPLAINT**

1 Pursuant to Local Rule 6-2, the Parties hereto, and their undersigned counsel, hereby stipulate as
2 follows:

3 WHEREAS on February 4, 2009, the Parties stipulated to allow Defendant Bank of
4 America, National Association an extension of fifteen (15) days, until February 20, 2009, to file a
5 response to the Complaint;

6 WHEREAS the Parties have conferred and agreed that certain portions of the Complaint
7 should be modified – namely portions of the Complaint relating to the fourth, fifth and eighth claims for
8 relief;

9 WHEREAS the Parties have also agreed that it would be a waste of resources for
10 Defendant Bank of America, National Association to file a responsive pleading to the Complaint if a
11 First Amended Complaint will be submitted pursuant to stipulation;

12 NOW THEREFORE, IT IS AGREED AS FOLLOWS:

- 13 1. That leave should be granted for Plaintiffs to file a First Amended Complaint;
- 14 2. That should the Court approve this Stipulation and grant Plaintiffs leave to file a First
15 Amended Complaint, Defendant Bank of America, National Association shall have twenty (20) days
16 after the First Amended Complaint is filed in which to file a responsive pleading;
- 17 3. That should the Court deny leave to file the proposed First Amended Complaint, Defendant
18 Bank of America, National Association will have twenty (20) days from the date of the Court's order
19 denying leave in which to file a responsive pleading to the Complaint.

20 Dated: February 10, 2009

21 J. GARY GWILLIAM
22 RANDALL E. STRAUSS
GWILLIAM, IVARY, CHIOSSO, CAVALLI &
BREWER

23 By: 

24 _____
25 Randall E. Strauss
26 Attorneys for Plaintiffs
Richard Adame, Connie G. Bender
and Constance Davis
27
28 ///
OHS West:260611206.1

STIPULATION RE GRANTING LEAVE TO FILE FIRST
AMENDED COMPLAINT, U.S.D.C., N.D. Cal. CV 09-0129

\$1

Dated: February 19, 2009

PATRICIA K. GILLETTE
KATINA B. MINER
ORRICK, HERRINGTON & SUTCLIFFE LLP

By: Patricia K. Gillette
Patricia K. Gillette
Attorneys for Defendant
Bank of America, National Association

ORDER

10 Pursuant to the stipulation set out above, Plaintiffs are given leave to file a First Amended
11 within 15 days
12 Complaint. Defendant Bank of America, National Association must file its responsive pleading within
ten (10) days of the filing of the Third Amended Complaint.

IT IS SO ORDERED.

Dated: February __, 2009

Hon. Susan Illston

Susan Illston

UNITED STATES DISTRICT JUDGE